

House File 571 - Introduced

HOUSE FILE _____
BY SWAIM

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to partition fences, including by providing
2 powers to fence viewers and standards.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2551HH 82
5 da/je/5

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1 1 Section 1. Section 359A.3, Code 2007, is amended to read
1 2 as follows:

1 3 359A.3 POWERS OF FENCE VIEWERS.

1 4 The fence viewers ~~shall have power to~~ may determine any
1 5 controversy arising under this chapter, upon giving five days'
1 6 notice in writing to the opposite party or parties,
1 7 prescribing the time and place of meeting to hear and
1 8 determine the matter named in said notice. Upon request of
1 9 any landowner, the fence viewers shall give such notice to all
1 10 adjoining landowners liable for the erection, ~~or maintenance,~~
~~1 11 rebuilding, trimming, or cutting back, or repairing~~ of a
1 12 partition fence, or to pay for an existing ~~hedge or~~ fence.
1 13 The fence viewers may require that each adjoining owner clear
1 14 an area along each owner's side of the partition fence to
1 15 allow for the inspection of the fence by the fence viewers or
1 16 for the erection or maintenance of the partition fence by the
1 17 parties or the board of township trustees.

1 18 Sec. 2. Section 359A.18, subsection 3, Code 2007, is
1 19 amended to read as follows:

1 20 3. ~~Three wires, A barbed wire fence. The posts must be~~
1 21 solidly set in the ground at intervals of not more than ten
1 22 feet. Corner posts must be set not less than four feet into
1 23 the ground and secured with brace wire firmly attached to
1 24 anchors set not less than four feet into the ground. Each
1 25 wire must be metal of twelve and one-half gauge. The wire
1 26 must be barbed with not less than thirty-six iron barbs of
1 27 wire. If a barb has two points each, or twenty-six iron barbs
~~1 28 of the barbs must be located at intervals of five and one-half~~
1 29 inches. If a barb has four points each, on each rod of wire,
~~1 30 or of four wires, two thus barbed and two smooth, the wires to~~
~~1 31 be firmly fastened to posts not more than two rods apart, with~~
~~1 32 not less than two stays between posts, or with posts not more~~
~~1 33 than one rod apart without such stays, the barbs must be~~
1 34 located at intervals of seven and one-half inches. The bottom
1 35 wire must not be more than ten inches from the ground. The
2 1 top wire to must not be not more than fifty-four nor less than
2 2 forty-eight inches in height from the ground.

2 3 Sec. 3. Section 359A.19, Code 2007, is amended to read as
2 4 follows:

2 5 359A.19 DUTY TO MAINTAIN TIGHT FENCES.

2 6 All partition fences may be made in a lawful tight manner
2 7 by the party desiring it, and when that party's portion is so
2 8 completed, ~~and securely fastened to good substantial posts,~~
~~2 9 set firmly in the ground, not more than twenty feet apart,~~ the
2 10 adjoining property owner shall construct the adjoining owner's
2 11 portion of the adjoining fence, in a lawful tight manner, ~~same~~
~~2 12 to be securely fastened to good substantial posts, set firmly~~
~~2 13 in the ground, not more than twenty feet apart.~~

2 14 Sec. 4. Section 359A.20, Code 2007, is amended to read as
2 15 follows:

2 16 359A.20 TIGHT FENCE.

2 17 All tight partition fences shall consist of any of the
2 18 following:

2 19 1. ~~Not less than twenty-six inches of substantial woven~~
~~2 20 wire on the bottom, with A wire fence. The posts must be~~

~~2 21 solidly set in the ground at intervals of not more than ten~~
~~2 22 feet. Corner posts must be set not less than four feet into~~
~~2 23 the ground and secured with a brace wire firmly attached to an~~
~~2 24 anchor set not less than four feet into the ground. The~~
~~2 25 bottom wire must be substantial woven wire. Above the bottom~~
~~2 26 wire there must be at least three strands of barbed wire with~~
~~2 27 not less than thirty-six barbs of wires. If a barb has at~~
~~2 28 least two points, to the rod, on top, the barbs must be~~
~~2 29 located at intervals of not more than five and one-half~~
~~2 30 inches. If the barb has four points, the barbs must be~~
~~2 31 located at intervals of seven and one-half inches. The top~~
~~2 32 wire to must not be not less than forty-eight forty-seven~~
~~2 33 inches, nor more than fifty-four inches high from the ground.~~
2 34 2. Good substantial woven wire not less than forty-eight
~~2 35 inches nor more than fifty-four inches high with one barbed~~
~~2 1 wire of not less than thirty-six barbs of two points to the~~
~~3 2 rod, not more than four inches above said woven wire.~~
3 3 3- 2. Any other kind of fence which the fence viewers
3 4 consider to be equivalent to a tight partition fence or which
3 5 meets standards established by the department of agriculture
3 6 and land stewardship by rule as equivalent to a tight
3 7 partition fence.

EXPLANATION

3 9 BACKGROUND. This bill amends Code chapter 359A which
3 10 contains provisions first codified in 1851, regulating the
3 11 construction and erection of fences. The Code chapter
3 12 provides for partition fences erected between land of
3 13 adjoining owners, and the right of fence viewers under the
3 14 jurisdiction of a county board of trustees to compel the
3 15 erection and maintenance of partition fences.
3 16 The Code chapter describes two different types of fences.
3 17 Code section 359A.18 describes a "lawful fence", which
3 18 consists of rails or barbed wire. However, the Code chapter
3 19 includes no special provisions relating to a lawful fence
3 20 other than Code section 359A.19 which imposes a duty on
3 21 adjoining landowners to construct their portions of the
3 22 partition fence in a "lawful tight manner". That Code section
3 23 provides that a lawful tight fence includes posts set not more
3 24 than 20 feet apart. Code section 359A.18 includes a
3 25 requirement that posts be spaced no further than two rods
3 26 apart. A rod equals 16 and one-half feet. Code section
3 27 359A.20 provides for tight fences having woven wire and barbed
3 28 wire. Code sections 359A.18 and 359A.20 provide for the
3 29 distances barbs may be spaced apart (depending upon the type
3 30 of barb). Both Code sections 359A.18 and 359A.20 provide that
3 31 the top wire must be between 48 to 54 inches in height. Code
3 32 section 359A.21 provides that a fence must restrain livestock.
3 33 Code section 359A.22 provides that all controversies arising
3 34 under Code sections 359A.18 to 359A.21 require that fence
3 35 viewers decide controversies "including the partition fences
4 1 made sheep and swine tight".

4 2 DUTY TO CLEAR AREA. The bill provides that the fence
4 3 viewers may require that each adjoining owner clear an area
4 4 along each owner's side of the partition fence to allow for
4 5 the inspection of the fence by the fence viewers or for the
4 6 erection or maintenance of the partition fence by the parties
4 7 or the board of township trustees.

4 8 STANDARDS. The bill amends requirements for fences as
4 9 provided in Code sections 359A.18, 359A.19, and 359A.20. It
4 10 provides that posts must be solidly set in the ground at
4 11 intervals of not more than 10 feet. Corner posts must be set
4 12 not less than four feet into the ground and secured with brace
4 13 wire firmly attached to anchors set not less than four feet
4 14 into the ground. For lawful fences, it requires that each
4 15 wire must be metal of 12 1/2 gauge. For both lawful and tight
4 16 fences, it provides requirements for barbs based on inches
4 17 rather than rods (but retains the distinction between fences
4 18 having two or four barbs). For lawful fences, the bill
4 19 provides that the bottom wire must not be more than 10 inches
4 20 from the ground. It eliminates inconsistent requirements in
4 21 Code chapter 359A.19.
4 22 LSB 2551HH 82
4 23 da:nh/je/5